(3)

C.8,1001

(1)

IN THE HIGH COURT OF CHHATTISGARH AT BILASPUR.

WRIT PETITION NO. 2405 OF 2004

PETITIONER : Smt. Aruna Channe W/o Shri Sunil Kumar Channe, Aged about 34 years, Assistant Teacher, Govt. Primary School, Pump House, Korba, District Korba, (C.G.).

P. R. No. 2393/04
Presented by Shri Yogendra Chaturvedi
dated 5-8-04

VERSUS

RESPONDENTS :

1. State of Chhattisgarh, Through: The Secretary, School Education Department, D. K. S. Bhawan, Raipur, (C.G.).

2. The Director,
Directorate of Education, Raipur, (C.G.).

3. The Collector,
District Korba (C.G.).

4. The District Education Officer,
Korba, (C.G.).

5. M. D. Chandra, Assistant Teacher

6. C. R. Kanwar, Assistant Teacher

7. M. L. Dewangan, Assistant Teacher

8. Usha Chatur, Assistant Teacher

9. Nivedita Banjara, Assistant Teacher

10. Sultana Khanam,Assistant Teacher

शपथ आयुक्त
04/8/04

RECEIVED A COPY
5.8.04
Clerk to A.G. Bilaspur

(4)

(2)

The above named respondent no. 5 to 10 are posted in Govt. Primary School, Pump House, Korba, District Korba, (C.G.).

WRIT PETITION UNDER ARTICLE 226/227 OF THE CONSTITUTION OF INDIA FOR ISSUANCE OF AN APPROPRIATE WRIT IN THE NATURE OF MANDAMUS/CERTIORARI ETC. OR DIRECTION/ORDER IN THE LIKE NATURE ETC.

(26)

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

आदेश पत्रक

मामला क्रमांक WP 2405/04 सन् 200

विरुद्ध

आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

3-9-2004

Shri Rajesh Pandey, counsel for the petitioner.

Shri V.V.S. Murthy, Dy. Adv. General with Shri Sandeep Dubey, P.L. for the State.

Application for urgent hearing is allowed.

Heard.

Learned counsel for the petitioner submits that the matter relates to transfer. He submits that the petitioner is a teacher and her husband is working in Health department and is posted at Korba. He also submitted that she has been transferred discriminately. He submitted that respondents no. 6 to 9 are working since last 20 years in the same school but they have not been transferred.

The transfer is an exigency of service. The Hon'ble Supreme Court in National Hydroelectric Power Corporation Ltd. –v-Shri Bhagwan and anr. (2001(8)SCC 574), in Union of India and others –v- Janardhan Debanath and another (2004(4) SCC 243) and these cases have also been considered in State of U.P. and others –v- Siya Ram and Anr. (2004(5) Supreme 750. The Hon'ble Supreme Court in State of U.P. and others (Supra) in para 5 has held as under:-

> *"5. The High Court while exercising jurisdiction under Articles 226 and 227 of the Constitution of India, 1950 (in short the 'Constitution') had gone into the question as to whether the transfer was in the interest of public service. That would essentially require factual adjudication and invariably depend upon peculiar facts and circumstances of the case concerned. No government servant or employee of a public undertaking has any legal right to be posted forever at any one particular place or place of his choice since transfer of a particular employee appointed to the class or category of*

[पीछे देखिये

(27)

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

आदेश पत्रक

मामला क्रमांक WP 4053/04 सन् 200

विरुद्ध

आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित -2-	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

transferable posts from one place to other is not only an incident, but a condition of service, necessary too in public interest and efficiency in the public administration. Unless an order of transfer is shown to be an outcome of mala fide exercise or stated to be in violation of statutory provisions prohibiting any such transfer, the courts or the tribunals normally cannot interfere with such orders as a matter of routine, as though they were the appellate authorities substituting their own decision for that of the employer/management, as against such orders passed in the interest of administrative exigencies of the service concerned. This position was highlighted by the Court in National Hydroelectric Power Corporation Ltd. v. Shri Bhagwan and Anr. (2001(8)SCC 574)."

Having thus considered, in the opinion of this Court, ends of justice will be served if an opportunity is given to the petitioner to make a detailed representation highlighting the difficulties which may or have resulted from the transfer and the non-desirability thereof before the competent authority of the respondents along with a copy of the petition and this order, within 15 days, and on such representation being filed, the competent authority of the respondents shall consider the grounds in its proper perspective and in accordance with law as early as possible preferably within six weeks from the date of receipt of the representation.

With the aforesaid observations, this petition stands disposed of at this stage with liberty to the petitioner that if his grievance still remain, he may avail the remedy under law.

Consequently M.W.P.No. 2132/2004 also stands disposed of.

C.C. as per rules.

Sd/-
Fakhruddin
Judge

Pathak